



**In the Supreme Court of Iowa**

<b>In the Matter of Iowa Court</b>	)	
<b>Rules New Chapter 26—Rules</b>	)	
<b>for Installment Payment Plans</b>	)	<b>Order</b>
<b>and Other Court Collection</b>	)	
<b>Activities</b>	)	

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The Iowa Supreme Court has approved a new Iowa Court Rules Chapter 26, Rules for Installment Payment Plans and Other Court Collections Activities. The provisions make permanent many of the interim procedures in place since July 2010, which were adopted in response to sweeping changes the Iowa legislature enacted regarding the state's procedures for collecting debt obligations, including court fines and fees owed to the state. The new chapter 26 will be effective July 1, 2013, and will apply to all court debt as defined in Iowa Code section 602.8107(1). The July 2, 2010, interim procedures governing the collection of court fines and fees remain in effect through June 30, 2013.

In July 2010, the Iowa Supreme Court, upon recommendation of the judicial council, adopted interim provisions governing installment pay plans and other collection activities of the judicial branch. Also upon recommendation from the judicial council, the court appointed a statewide advisory committee to study the courts' collections processes and make recommendations for improvements and for permanent rules. The Judicial Council Advisory Committee on Fine Collection Procedures, Practices, and Rules (advisory committee) comprised district court judges, district associate judges, magistrates, clerks of court, an assistant district court administrator, a

trial court supervisor, and a county clerk of court financial supervisor. It submitted a report to the court that included recommendations for permanent rules for court-ordered installment payment plans and other collections activities of the Iowa courts. Those recommendations have been updated to account for new legislation since the court issued its interim procedures.

The advisory committee conducted several meetings and considered and consulted with a variety of resources. The advisory committee reviewed applicable Iowa legislation and laws, researched collections procedures from other states across the country, and received input from the following: the Centralized Collection Unit of the Iowa Department of Revenue (CCU), the designated judicial branch private collection agency, the Polk County Attorney's Office, the Department of Corrections, and the Department of Transportation.

An overarching concern of the advisory committee was that the judicial branch is not well suited for the collections business. All collections work, such as tracking performance under payment plans, must be performed by employees in clerk's offices in addition to their regular duties. Judicial officers frequently lack reliable information on an individual's ability to pay court debt. While various other entities are engaged in the collection of court debt in Iowa, including CCU, county attorney offices, and the designated private collection agency, by law the judicial branch cannot collect a service fee for its collection-related services.

After careful consideration, the court has decided to adopt most of the advisory committee's recommendations. Generally speaking, the court believes these recommendations fairly balance the limited capacity and expertise of the judicial branch in this area and the goal of justly meeting the reasonable needs and expectations of the citizens of Iowa.

Prior to adopting the new chapter 26, the court solicited public comment on the committee's proposed rules for court-ordered installment pay plans and court collections activities. The court received numerous comments, including from magistrates, a district associate judge, clerks of court, county attorneys, Iowa Legal Aid, the State Public Defender, and the Ombudsman's office. The comments were thorough and thoughtful, and the court appreciates having the benefit of such careful discourse. The court also received a response to the comments from the advisory committee.

The comments have included the following criticisms of the proposed rules: (1) courts should have complete discretion in establishing payment plans with no limitations on length of plans or installment amounts; (2) payment plans and community service should be an option for court debts under the amount of \$300; (3) the new provisions should include references to county attorney debt collection activities; and (4) courts should not be in the business of administering any installment payment plans.

*1. Court discretion in setting payment plans.*

The advisory committee recognized, and the court agrees, that the current volume of work in the Iowa court system coupled with current staffing levels renders judicial branch involvement in collections activities problematic and inefficient. Iowa Code section 909.3, however, gives courts discretion to allow payment of court fines in installments.<sup>1</sup> The advisory committee

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<sup>1</sup>Iowa Code section 909.3, as amended by S.F. 2383, 4 Iowa Legis. Service 558 (West 2010), states the following:

**909.3 Payment in installments.**

1. All fines imposed by the court shall be paid on the day the fine is imposed, and the person shall be instructed to pay such fines with the office of the clerk of the district court on the date of imposition.
2. *a.* The court may, in its discretion, order a fine to be paid in installments.

recommended that court payment plans should be allowed at the judge's option but only for total court debt above \$300, with minimum installment payments of \$50, and a maximum duration of two years. This would not affect the availability of payment plans for court debt from other entities, such as CCU.

The supreme court generally concurs in these recommendations. The court has determined, however, that limiting the duration of a payment plan to two years may work an undue hardship on some debtors who otherwise are making reasonable progress in paying down their debt. For this reason, and consistent with comments received, the court has modified the advisory committee's recommendation so that chapter 26 does not provide a time limitation on the duration of installment payment plans.

*2. Payment plans and community service for court debt above \$300.*

The advisory committee and the court have considered permitting installment payment plans or community service for debts below \$300. The advisory committee recommended and the court agrees that allowing installment payment plans for debts of less than \$300 could significantly add to the workload of already overly burdened clerks of court. Similarly, the resources required to monitor community service plans and the limited availability of such plans in some areas support adoption of a rule prohibiting utilization of community service for debts less than \$300. The \$300 minimum amount required for installment payment plans and community service also avoids having to administer these options for common, lower cost traffic infractions.

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*b.* If the court orders the fine to be paid in installments, the first installment payment shall be made within thirty days of the fine being imposed. All other terms and conditions of an installment payment plan order pursuant to this section shall be established by rule by the judicial branch.

### *3. Scope of Chapter 26.*

Rule 26.1 identifies the scope of chapter 26: The “provisions govern installment payment plans and other collection activities of the judicial branch.” Rule 26.1 also provides that chapter 26 procedures “apply to all court debt as defined in Iowa Code section 602.8107(1), and provide for the efficient and expeditious collection of court debt.” Chapter 26 does not address the role of CCU as set forth in Iowa Code section 602.8107(3) or county attorney efforts to collect delinquent debt addressed in section 602.8107(4).

All court debt not paid within 30 days of assessment, or within 30 days after the date it is due pursuant to an installment payment plan, is delinquent and must be assigned to CCU. Iowa Code section 602.8107(2)(d) & (3). Once a court debt is deemed delinquent for 60 days, which is at least 90 days from the date of assessment, then the county attorney may begin collection efforts on the delinquent debt. Iowa Code section 602.8107(4).

### *4. Efficient and expeditious collection of court debt.*

The supreme court recognizes that many low or fixed income Iowans may struggle with the payment of any amount of court fine. Iowa law provides the court with discretion to order fines to be paid in installments to accommodate such cases. It is also true, however, that court ordered and administered installment payment plans are a burden on already stretched court resources and personnel. These court resources and personnel also provide other valuable services to court users, including those who may struggle to pay fines.

The challenge to the advisory committee, and for the court, was to find a balance of these competing realities. The court finds that the chapter 26 provisions comport with the existing statutory framework, provide judges a necessary degree of discretion, and strike a practical balance in the allocation of limited court resources and personnel.

The July 2, 2010, interim procedures governing the collection of court fines and fees remain in effect through June 30, 2013. New Chapter 26 of the Iowa Court Rules, Rules for Installment Payment Plans and Other Court Collections Activities, is effective July 1, 2013.

Dated this 4th day of June, 2013.

The Supreme Court of Iowa

By Mark S. Cady  
Mark S. Cady, Chief Justice